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18 CALIFORNIA PHYSICIANS' SERVICE
dba BLUE SHIELD OF CALIFORNIA
19

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 JEFF BUSH, on behalf of himself and) CASE NO.: 2:15-cv-07313-DDP(PJWx)
all others similarly situated,) Related to 2:14-cv-00321
23)
24 v. Plaintiffs,) **[PROPOSED] STIPULATED
25 CALIFORNIA PHYSICIANS') PROTECTIVE ORDER**
26 SERVICE, dba BLUE SHIELD OF)
27 CALIFORNIA,)
28 Defendant.)

1 Subject to the approval of this Court, Plaintiff Jeff Bush and Defendant
2 California Physicians' Service dba Blue Shield of California stipulate as follows:

3 1. Purposes and Limitations

4 Discovery in this action is likely to involve production of confidential,
5 proprietary, or private information for which special protection from public
6 disclosure and from use for any purpose other than prosecuting this litigation may
7 be warranted. Accordingly, the parties hereby stipulate to and petition the Court to
8 enter the following Stipulated Protective Order. The parties acknowledge that this
9 Order does not confer blanket protections on all disclosures or responses to
10 discovery and that the protection it affords from public disclosure and use extends
11 only to the limited information or items that are entitled to confidential treatment
12 under the applicable legal principles. The parties further acknowledge, as set forth in
13 Section 9, below, that this Stipulated Protective Order does not entitle them to file
14 confidential information under seal; Civil Local Rules 79-5, 79-6, and 79-7 set forth
15 the procedures that must be followed and the standards that will be applied when a
16 party seeks permission from the court to file material under seal.

17 2. Good Cause Statement

18 This action is likely to involve valuable research, development, commercial,
19 financial, technical and/or proprietary information for which special protection from
20 public disclosure and from use for any purpose other than prosecution of this action
21 is warranted. Such confidential and proprietary materials and information consist of,
22 among other things, confidential business or financial information; information
23 regarding confidential business practices or other confidential research,
24 development, or commercial information (including information implicating privacy
25 rights of third parties); or information otherwise generally unavailable to the public
26 or which may be privileged or otherwise protected from disclosure under state or
27 federal statutes, court rules, case decisions, or common law. Accordingly, to
28 expedite the flow of information, to facilitate the prompt resolution of disputes over

1 confidentiality of discovery materials, to adequately protect information the parties
2 are entitled to keep confidential, to ensure that the parties are permitted reasonable
3 necessary uses of such material in preparation for and in the conduct of trial, to
4 address their handling at the end of the litigation, and serve the ends of justice, a
5 protective order for such information is justified in this matter. It is the intent of the
6 parties that information will not be designated as confidential for tactical reasons
7 and that nothing be so designated without a good faith belief that it has been
8 maintained in a confidential, non-public manner, and there is good cause why it
9 should not be part of the public record of this case.

10 3. A document constitutes or contains “Confidential Material” when it has
11 been given that designation by the party producing it or by the party to whom the
12 information relates (“the Designating Party”). A party or nonparty may designate
13 documents or information as “Confidential Material” as follows:

14 a. In the case of documents and information contained in
15 documents, designation must be made by placing the following legend on each page
16 of the document before production: **“CONTAINS CONFIDENTIAL
17 MATERIAL, SUBJECT TO PROTECTIVE ORDER.”**

18 b. In the case of discovery responses and information contained in
19 discovery responses, designation must be made by (i) placing a statement at the
20 start or end of the responses specifying that the responses, or part of the responses,
21 are designated Confidential Material, and (ii) placing the following legend on each
22 page (including the caption page) of any discovery response containing designated
23 Confidential Material: **“CONTAINS CONFIDENTIAL MATERIAL, SUBJECT
24 TO PROTECTIVE ORDER.”**

25 c. In the case of depositions and hearings, designation of the
26 portions of the transcript (including exhibits) that contain Confidential Material must
27 be made by the Designating Party by: (i) making a statement to that effect on the
28 record in the course of the deposition or hearing; or (ii) sending a letter to all counsel

1 within the time permitted for the review and signing of the deposition by the witness
2 (in the event of a deposition) or within 45 days of receipt of the transcript of the
3 hearing (in the event of a hearing). Once designated, the original and each copy of
4 the transcript that contains Confidential Material must bear (or must be modified by
5 counsel to bear) the following legend on its cover: “**CONTAINS**
6 **CONFIDENTIAL MATERIAL, SUBJECT TO PROTECTIVE ORDER.**”

7 4. For purposes of this Order, “Confidential Material” includes the
8 following types of documents and information:

- 9 a. information that is proprietary or constitutes a trade secret,
10 including, without limitation, information, materials, and other documents reflecting
11 non-public business or financial strategies and confidential competitive information
12 that, if disclosed, could result in prejudice or harm to the disclosing party;
- 13 b. non-public financial projections, analyses, or studies;
- 14 c. non-public communications with regulators, Departments of
15 Insurance, or other governmental bodies that are intended to be kept confidential or
16 are protected from disclosure by statute or regulation; and
- 17 d. policyholder-specific information, including private medical
18 information.

19 4.1 Any copies or reproductions, excerpts, summaries, or other documents
20 or media that contain or incorporate Confidential Material as defined above will also
21 be treated as Confidential Material under this Order.

22 4.2 Nothing in this Order will be construed as requiring Defendant to
23 produce any personal or identifying information regarding any individual or any
24 other policyholder, nor policyholder information that is protected from disclosure
25 under applicable state or federal law.

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1 5. Confidential Material may be used solely for the purpose of conducting
2 this litigation and not for any other purpose whatsoever. For the purpose of
3 conducting this litigation, Confidential Material may be used by, copied by,
4 exhibited to, or disclosed to the following persons or entities only:

- 5 a. The parties to this action;
6 b. The parties' attorneys and their respective employees;
7 c. Any witness from whom testimony is taken or will be taken in
8 this action, except that the witness may be shown copies of Confidential Material
9 only during his or her testimony and in preparation for the testimony, and only to the
10 extent relevant to the testimony. The witness may not retain any Confidential
11 Material;
- 12 d. Consultants, experts, and investigators employed by the parties
13 or their attorneys in the prosecution or defense of any aspect of this litigation;
- 14 e. Court reporters used in connection with this action and their
15 employees;
- 16 f. The Court and its staff; and
- 17 g. The jury, if any, in the trial of this case.

18 6. No disclosure may be made to any person under Paragraphs 2(c), (d) or
19 (e) until that person has executed an "Understanding and Agreement" in the form
20 attached as Exhibit A. With respect to consultants, experts, and investigators
21 employed by the parties to this litigation, Exhibit A must be fully executed by the
22 consultant, expert, or investigator and retained by counsel for the party employing
23 the consultant, expert, or investigator.

24 7. All persons described in paragraphs 2(a) through (g) above are
25 prohibited from disclosing any portion of Confidential Material to any other person,
26 or from using any information obtained from the Confidential Material, except as
27 permitted by this stipulation.

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1 8. Nothing in this stipulation prevents the use of information that is
2 publicly available.

3 9. Any motion papers, briefs, memoranda, affidavits, declaration, exhibits,
4 transcripts, or other papers filed with the Clerk of the Court that contain any
5 Confidential Material must comply with the procedures for filing documents under
6 seal set forth in Local Rules 79-5, 79-6, and 79-7.

7 10. If any party or nonparty bound by this stipulation intends to disclose,
8 discuss, or otherwise refer to any Confidential Material in open court at any hearing
9 or trial, that person must notify the Court, the Designating Party, and all other
10 parties to this action of its intention to do so, and must not disclose, discuss, or
11 otherwise refer to the Confidential Material until permitted by the Court.

12 11. A party's inadvertent failure to designate disclosed materials as
13 Confidential Material does not waive its right to do so and may be remedied by
14 prompt written notice upon discovery of the error, in which case the material in
15 question will be subject to the protections of this Order.

16 12. Notwithstanding anything to the contrary in this stipulation, any party
17 may use the following documents or information without restriction, regardless of
18 whether they have been designated as Confidential Material:

- 19 a. its own documents or information;
20 b. documents or information concerning or reflecting transactions
21 or communications to which it is a party; and
22 c. documents or information developed or obtained independently
23 of discovery in this action.

24 13. This stipulation applies with equal force to any and all copies, extracts,
25 compilations, summaries, and oral recitation of Confidential Material.

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1 14. Within sixty days of final termination of this action, or sooner if so
2 ordered by this Court, counsel for the party receiving any Confidential Material
3 must transmit all Confidential Material (including all copies) to counsel for the
4 Designating Party.

5 15. A party is not obligated to challenge the propriety of a confidentiality
6 designation at the time it is made. Failure to do so does not preclude a subsequent
7 challenge to the designation. If any party to this action objects, at any stage of the
8 proceedings, to the designation of a document or testimony as "Confidential," the
9 parties will first try to resolve the dispute informally and in good faith. If the dispute
10 cannot be resolved informally, then the objecting party may, on notice to all other
11 parties, apply to the Court for appropriate relief. The Designating Party has the
12 burden of establishing that the document or testimony is entitled to confidential
13 treatment. If an application to the Court is made, then the document or testimony
14 must be treated as Confidential Material by all parties unless and until the Court
15 enters an order determining otherwise.

16 16. Any dispute concerning the application of this Order will be heard by
17 the Court upon motion by any party.

18 17. If any Party has obtained Confidential Material under the terms of this
19 Order and receives a request to produce such Confidential Material by subpoena or
20 other compulsory process commanding the production of such Confidential
21 Material, the Party must promptly (within 3 business days) notify the Designating
22 Party, including in such notice the date set for the production of such subpoenaed
23 information and, unless prohibited by applicable law, enclosing a copy of the
24 subpoena or other form of process.

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1 18. The parties agree that this stipulation binds them regardless of whether
2 the Order is signed by the Court, unless the Court enters a different protective order
3 in place of this stipulation.

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5 DATED: May 12, 2016

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7 GIANELLI & MORRIS

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10 By: /s/ Adrian Barrio
11 ROBERT S. GIANELLI
12 JOSHUA S. DAVIS
13 ADRIAN J. BARRO
14 Attorneys for Plaintiff,
15 JEFF BUSH

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17 DATED: May 12, 2016

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19 MANATT, PHELPS & PHILLIPS,
20 LLP

21

22 By: /s/ Michael Godino
23 GREGORY N. PIMSTONE
24 JOSEPH E. LASKA
25 MICHAEL C. GODINO
26 Attorneys for Defendant,
27 California Physicians' Service dba
28 Blue Shield of California

[PROPOSED] ORDER

Good cause appearing, the Court approves this Stipulation and Protective
Order.

IT IS SO ORDERED.

Dated: 5/12/16

By Patrick J. Walsh
United States Magistrate Judge

EXHIBIT A

UNDERSTANDING AND AGREEMENT

I affirm that I have read the stipulated protective order in *Jeff Bush v. California Physicians' Service dba Blue Shield of California*, U.S. District Court for the Central District of California Case No. 2:15-cv-07313-DDP(PJWx). I understand its terms and agree to be bound by them.

Signature: _____

Print Name: _____

Date: _____